

HOUSE BILL No. 1265

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-2-5-16; IC 35-38-4-7.

Synopsis: Criminal records of juveniles. Provides for the sealing of criminal history data concerning an act committed by a person before the person became 18 years of age. Provides that this provision does not apply to a person who: (1) commits a sex offense or murder; (2) is in a penal facility when the person is at least 22 years of age; or (3) is arrested for a felony after the person becomes 18 years of age.

Effective: July 1, 2002.

Smith V, Dillon

January 14, 2002, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE BILL No. 1265

A BILL FOR AN ACT to amend the Indiana Code concerning criminal and juvenile law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-2-5-16 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2002]: **Sec. 16. (a) This section does not apply to the following**
4 **persons:**

5 (1) **A sex and violent offender (as defined in IC 5-2-12-4)**
6 **subject to sex offender registration.**

7 (2) **A person convicted of murder.**

8 (3) **A person who is in a penal facility when the person is**
9 **twenty-two (22) years of age.**

10 (b) **Subject to this section, if:**

11 (1) **the department, a criminal justice agency, or a juvenile**
12 **justice agency possesses criminal history information relating**
13 **to an act that a person committed or allegedly committed**
14 **before the person became eighteen (18) years of age; and**

15 (2) **the:**

16 (A) **department; or**

17 (B) **criminal justice agency, after checking with the**



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1 department;
 2 does not find that the person was arrested for a felony that the
 3 person committed after the person became eighteen (18) years
 4 of age;

5 the department, criminal justice agency, or juvenile justice agency
 6 shall seal the person's criminal history data when the person
 7 becomes twenty-two (22) years of age.

8 (c) Except as provided under subsection (d), the department,
 9 criminal justice agency, or juvenile justice agency may not release
 10 sealed criminal history data to, or allow inspection of sealed
 11 criminal history data by, any agency or person other than the
 12 person who is the subject of the criminal history data.

13 (d) A court may order the release or inspection of sealed
 14 criminal history data only if:

- 15 (1) the person who is the subject of the sealed criminal history
 16 data challenges its existence during a court proceeding; or
 17 (2) the person who is the subject of the sealed criminal history
 18 is arrested by the United States, in Indiana, in another state,
 19 or in another country for an act that:

- 20 (A) the person committed after the person became eighteen
 21 (18) years of age; and
 22 (B) is a felony in Indiana or the equivalent of a felony in
 23 Indiana.

24 Criminal history data ordered released under subdivision (1) is
 25 unsealed only to the extent reasonably necessary to refute the claim
 26 under subdivision (1) that the sealed criminal history data does not
 27 exist. Criminal history data ordered released under subdivision (2)
 28 may be released or inspected as if the criminal history data had
 29 never been sealed.

30 SECTION 2. IC 35-38-4-7 IS ADDED TO THE INDIANA CODE
 31 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 32 1, 2002]: Sec. 7. (a) This section does not apply to the following:

- 33 (1) A sex and violent offender (as defined in IC 5-2-12-4)
 34 subject to sex offender registration.
 35 (2) A person convicted of murder.
 36 (3) A person who is in a penal facility when the person is
 37 twenty-two (22) years of age.

38 (b) Subject to this section, if a court:

- 39 (1) possesses criminal history data (as defined in IC 5-2-5-1)
 40 or other records relating to a criminal act that a person
 41 committed or allegedly committed before the person became
 42 eighteen (18) years of age; and

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(2) after checking with the state police department, does not find that the person was arrested for a felony that the person committed or allegedly committed after the person became eighteen (18) years of age;

the court shall seal the person's criminal history data (as defined in IC 5-2-5-1) or other related court records when the person becomes twenty-two (22) years of age.

(c) Except as provided in subsection (d), the court may not release sealed criminal history data (as defined in IC 5-2-5-1) or related court records to, or allow inspection of sealed criminal history data (as defined in IC 5-2-5-1) or related court records by, any agency or person other than the person who is the subject of the criminal history data (as defined in IC 5-2-5-1) or related court records.

(d) A court may order the release or inspection of sealed criminal history data (as defined in IC 5-2-5-1) or related court records only if:

- (1) the person who is the subject of the sealed criminal history data challenges its existence during a court proceeding; or
- (2) the person who is the subject of the sealed criminal history is arrested by the United States, in Indiana, in another state, or in another country for an act that:

(A) the person committed after the person became eighteen (18) years of age; and

(B) is a felony in Indiana or the equivalent of a felony in Indiana.

Criminal history data ordered released under subdivision (1) is unsealed only to the extent reasonably necessary to refute the claim under subdivision (1) that the sealed criminal history data does not exist. Criminal history data ordered released under subdivision (2) may be released or inspected as if the criminal history data had never been sealed.

SECTION 3. [EFFECTIVE JULY 1, 2002] IC 5-2-5-16 and IC 35-38-4-7, both as added by this act, apply only to a person who:

(1) becomes twenty-two (22) years of age after June 30, 2002; or

(2) became twenty-two (22) years of age before July 1, 2002, and petitions a court, the state police department, a juvenile justice agency, or a criminal justice agency that possesses criminal justice information to seal the person's criminal history information after June 30, 2002.

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